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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4169 OF 2006

IN

FIRST APPEAL (ST) NO. 22791 OF 2006

Office Notes, Office Memoranda
of Coram, appearances, Court's
Orders or directions and
Registrar's Orders

Court's or Judge's Orders

Manish Mestry i/by. M/s. M.P.
Vashi and Associates for the
appellants.

Mr.J.J.Xavier for B.M.C.

CORAM: S.B. DESHMUKH, J.

September 28, 2006.

P.C. :

1. Not on board. Mentioned.

Taken on board.

2. Heard the learned counsel for
the applicant and Mr. Xavier for the
corporation.

2. By this application, the applicant is seeking condonation of 44 days delay occurred in filing of first appeal in this court. It is alleged in para 3 of the Civil Application that the applicant had engaged advocate M/s. S.V.Shetty and Co. in the trial court. While filing an appeal the appellant changed the advocate. The applicant was instructed by the advocate in the High court to collect the certified copies of paper, pleadings, evidence etc. for filing of the appeal. The applicant accordingly collected the papers and during this process delay of about 44 days has occurred in filing of First Appeal.

3. Having heard the learned counsel for the parties, in my view case for condonation of delay is established. In the result, delay of

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44 days caused in filing of First Appeal is condoned. Civil Application is accordingly allowed and disposed off.

sd/-

(JUDGE)

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1. Heard the learned counsel for
the applicant as well as Mr. Xavier
for the Corporation.

2. Mr. Xavier has pointed out that interim protection granted by the trial court, expired on 27.7.2006. Thereafter there is no interim / ad-interim relief in favour of the applicant till date. He is also not aware as to whether structure is demolished by the Corporation. He seeks time to take instructions.

3. According to the learned counsel for the applicant, the structure is not demolished. If the structure is not demolished, status-quo as of today to be maintained till next date.

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. List the appeal for admission
on 5.10.2006.

sd/-
(JUDGE)